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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,472	04/21/2004	Carlo Vittorio Vallarino Gancia	175.8043USU	6415

7590 03/13/2007  
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EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/829,472

Applicant(s)

GANCIA, CARLO VITTORIO  
VALLARINO

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4-21-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical, or inventive, feature of the claimed instant invention.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

It is unclear how the indicator is connected with both the sealing element and the safety element simultaneously.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Coifman (US 4,669,620).

Disclosed is a sealing cover (8) comprising:

- a sealing element (12) for sealing an outlet opening of a container,
- a safety element (10) adapted to be displaced relative to the sealing element from a closed position into an opening position,

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- an indicator (14) connected with the sealing element and/or the safety element, for indicating the opening position,
- an actuator (32) connected with the safety element and/or the sealing element for actuating the indicator upon displacing the safety element, and
- a release unit (24) connected with the sealing element and the safety element for permitting the rotation of the sealing element,

the indicator being arranged at an outside of the sealing element or the safety element and the position of the indicator changing such in the opening position with respect to the closed position that it is tangible.

Regarding claim 3, the indicator is connected with the safety element or the sealing element via a web (16).

Regarding claim 4, the safety element at least partially surrounds the sealing element.

Regarding claim 5, the safety element is annular or cap-shaped.

Regarding claim 6, the release unit comprises at least one catch element (48) to interconnect the safety element and the sealing element for co-rotation.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogden (US 5,762,215).

Disclosed is a sealing cover comprising:

- a sealing element (1) for sealing an outlet opening of a container;
- a safety element (2) adapted to be displaced relative to the sealing element from a closed position into an opening position,
- an indicator (13) connected with the sealing element and/or the safety element, for indicating the opening position,

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- an actuator (6) connected with the safety element and/or the sealing element for actuating the indicator upon displacing the safety element, and
- a release unit (17) connected with the sealing element and the safety element for permitting the rotation of the sealing element,

the indicator being arranged at an outside of the sealing element or the safety element and the position of the indicator changing such in the opening position with respect to the closed position that it is tangible.

Regarding claim 2, the actuator comprises a ramp-shaped configuration so that the indicator is pressed outward when the safety element and the sealing element are displaced relative to each other.

Regarding claim 3, the indicator is connected with the safety element or the sealing element via a web (14b).

Regarding claim 4, the safety element at least partially surrounds the sealing element.

Regarding claim 5, the safety element is annular or cap-shaped.

Regarding claim 6, the release unit comprises at least one catch element (7) to interconnect the safety element and the sealing element for co-rotation.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogden in view of Hawkins (US 4,844,273).

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Ogden discloses a sealing liner for abutting and sealing the open end of an associated container, but is silent regarding the use of a structurally equivalent sealing ring.

Hawkins teaches it is known to provide a sealing ring in a groove of a sealing element.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the sealing liner of Ogden with a sealing ring as taught by Hawkins, since the examiner takes Official Notice of the equivalence of a sealing liner and sealing ring for their use in the closure art and the selection of any of these known equivalents to provide a seal between closure sealing element and an associated container would be within the level of ordinary skill in the art. In the instant case, the sealing ring would save on material for the sealing element.

8. Claims 1 and 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerracchio (WO 02/057141) in view of Fillmore (US 4,678,082).

Cerracchio discloses a sealing cover comprising:

- a sealing element (10) for sealing an outlet opening of a container,
- a safety element (20) adapted to be displaced relative to the sealing element from a closed position into an opening position,
- an actuator (6) connected with the safety element and/or the sealing element for actuating the indicator upon displacing the safety element, and
- a release unit (17) connected with the sealing element and the safety element for permitting the rotation of the sealing element.

Cerracchio does not disclose an indicator connected with the sealing element and/or the safety element, for indicating the opening position, the indicator being arranged at an outside of the sealing element or the safety element and the position of the indicator changing such in the opening position with respect to the closed position that it is tangible.

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Fillmore teaches it is known to provide a sealing cover with an indicator 18 attached thereto by a web (19) for indicating the open position of the sealing cover.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an indicator to the sealing cover of Cerracchio. Doing so allows one to realize the cover has been opened when in an applied position to an associated container.

Regarding claim 4, the safety element at least partially surrounds the sealing element.

Regarding claim 5, the safety element is annular or cap-shaped.

Regarding claim 6, the release unit comprises at least one catch element to interconnect the safety element and the sealing element for co-rotation.

Regarding claim 9, the storage room (42) is seen in figure 6C.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Hawkins.

Cerracchio as modified discloses the claimed sealing cover except for a sealing ring in a groove of the sealing cover.

Hawkins teaches it is known to provide a sealing ring in a groove of a sealing element.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a sealing ring as taught by Hawkins to the modified sealing cover of Cerracchio. Doing so provides a more effective seal between the sealing cover and the associated container.

### ***Conclusion***

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions

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believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
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- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
March 9, 2007



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GAU 3781